

ASSEMBLY BILL

No. 1299

Introduced by Assembly Member Fuller

February 23, 2007

An act to amend Sections 827 and 10850.1 of the Welfare and Institutions Code, relating to public social services.

LEGISLATIVE COUNSEL'S DIGEST

AB 1299, as introduced, Fuller. Records: confidentiality and access: child abuse.

Existing law limits the authority to inspect the case file of a ward or dependent child of the juvenile court to designated persons and entities, including, among others, members of children's multidisciplinary teams, persons, or agencies providing treatment or supervision of the minor.

This bill additionally would authorize members of children's multidisciplinary teams, persons, or agencies engaged in the prevention, identification, and treatment of child abuse to inspect juvenile case files.

Existing law provides that applications and records concerning any individual made or kept by any public officer or agency in connection with the administration of specified public social services programs are confidential, and not open to examination for any purpose not directly connected with the administration of the program, or any investigation, prosecution, or criminal or civil proceeding conducted in connection with the administration of the program.

Existing law, notwithstanding the above provision, authorizes a member of a multidisciplinary personnel team, as defined, that is engaged in the prevention, identification, and treatment of child abuse or the abuse of elder or dependent persons to disclose and exchange any information or writing that also is kept or maintained in connection

with any program of public social services or otherwise designated as confidential under state law that he or she reasonably believes is relevant to the prevention, identification, or treatment of child abuse or the abuse of elder or dependent persons to other members of the team. Existing law provides that related discussions and writings of team members are confidential, and testimony relating to these discussion is not admissible in any criminal, civil, or juvenile court proceeding.

This bill would extend confidentiality to written reports prepared by the team, and would provide that the team’s discussions writings, and written reports would be exempt from discovery, and inadmissible, in any criminal, civil, or juvenile court proceeding.

Vote: majority. Appropriation: no. Fiscal committee: no.
State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 827 of the Welfare and Institutions Code
- 2 is amended to read:
- 3 827. (a) (1) Except as provided in Section 828, a case file
- 4 may be inspected only by the following:
- 5 (A) Court personnel.
- 6 (B) The district attorney, a city attorney, or city prosecutor
- 7 authorized to prosecute criminal or juvenile cases under state law.
- 8 (C) The minor who is the subject of the proceeding.
- 9 (D) His or her parents or guardian.
- 10 (E) The attorneys for the parties, judges, referees, other hearing
- 11 officers, probation officers, and law enforcement officers who are
- 12 actively participating in criminal or juvenile proceedings involving
- 13 the minor.
- 14 (F) The superintendent or designee of the school district where
- 15 the minor is enrolled or attending school.
- 16 (G) Members of the child protective agencies as defined in
- 17 Section 11165.9 of the Penal Code.
- 18 (H) The State Department of Social Services to carry out its
- 19 duties pursuant to Division 9 (commencing with Section 10000),
- 20 and Part 5 (commencing with Section 7900) of Division 12, of the
- 21 Family Code to oversee and monitor county child welfare agencies,
- 22 children in foster care or receiving foster care assistance, and
- 23 out-of-state placements.

1 (I) Authorized legal staff or special investigators who are peace
2 officers who are employed by, or who are authorized
3 representatives of, the State Department of Social Services, as
4 necessary to the performance of their duties to inspect, license,
5 and investigate community care facilities, and to ensure that the
6 standards of care and services provided in those facilities are
7 adequate and appropriate and to ascertain compliance with the
8 rules and regulations to which the facilities are subject. The
9 confidential information shall remain confidential except for
10 purposes of inspection, licensing, or investigation pursuant to
11 Chapter 3 (commencing with Section 1500) and Chapter 3.4
12 (commencing with Section 1596.70) of Division 2 of the Health
13 and Safety Code, or a criminal, civil, or administrative proceeding
14 in relation thereto. The confidential information may be used by
15 the State Department of Social Services in a criminal, civil, or
16 administrative proceeding. The confidential information shall be
17 available only to the judge or hearing officer and to the parties to
18 the case. Names that are confidential shall be listed in attachments
19 separate to the general pleadings. The confidential information
20 shall be sealed after the conclusion of the criminal, civil, or
21 administrative hearings, and may not subsequently be released
22 except in accordance with this subdivision. If the confidential
23 information does not result in a criminal, civil, or administrative
24 proceeding, it shall be sealed after the State Department of Social
25 Services decides that no further action will be taken in the matter
26 of suspected licensing violations. Except as otherwise provided in
27 this subdivision, confidential information in the possession of the
28 State Department of Social Services may not contain the name of
29 the minor.

30 (J) Members of children’s multidisciplinary teams, persons, or
31 agencies providing treatment or supervision of the minor, *or*
32 *engaged in the prevention, identification, and treatment of child*
33 *abuse.*

34 (K) A judge, commissioner, or other hearing officer assigned
35 to a family law case with issues concerning custody or visitation,
36 or both, involving the minor, and the following persons, if actively
37 participating in the family law case: a family court mediator
38 assigned to a case involving the minor pursuant to Article 1
39 (commencing with Section 3160) of Chapter 11 of Part 2 of
40 Division 8 of the Family Code, a court-appointed evaluator or a

1 person conducting a court-connected child custody evaluation,
2 investigation, or assessment pursuant to Section 3111 or 3118 of
3 the Family Code, and counsel appointed for the minor in the family
4 law case pursuant to Section 3150 of the Family Code. Prior to
5 allowing counsel appointed for the minor in the family law case
6 to inspect the file, the court clerk may require counsel to provide
7 a certified copy of the court order appointing him or her as the
8 minor’s counsel.

9 (L) A court-appointed investigator who is actively participating
10 in a guardianship case involving a minor pursuant to Part 2
11 (commencing with Section 1500) of Division 4 of the Probate
12 Code and acting within the scope of his or her duties in that case.

13 (M) A local child support agency for the purpose of establishing
14 paternity and establishing and enforcing child support orders.

15 (N) Juvenile justice commissions as established under Section
16 225. The confidentiality provisions of Section 10850 shall apply
17 to a juvenile justice commission and its members.

18 (O) Any other person who may be designated by court order of
19 the judge of the juvenile court upon filing a petition.

20 (2) Notwithstanding any other law and subject to subparagraph
21 (A) of paragraph (3), juvenile case files, except those relating to
22 matters within the jurisdiction of the court pursuant to Section 601
23 or 602, that pertain to a deceased child who was within the
24 jurisdiction of the juvenile court pursuant to Section 300, shall be
25 released to the public pursuant to an order by the juvenile court
26 after a petition has been filed and interested parties have been
27 afforded an opportunity to file an objection. Any information
28 relating to another child or which could identify another child,
29 except for information about the deceased, shall be redacted from
30 the juvenile case file prior to release, unless a specific order is
31 made by the juvenile court to the contrary. Except as provided in
32 this paragraph, the presiding judge of the juvenile court may issue
33 an order prohibiting or limiting access to the juvenile case file, or
34 any portion thereof, of a deceased child only upon a showing that
35 release of the juvenile case file or any portion thereof is detrimental
36 to the safety, protection, or physical or emotional well-being of
37 another child who is directly or indirectly connected to the juvenile
38 case that is the subject of the petition.

1 (3) Access to juvenile case files pertaining to matters within the
2 jurisdiction of the juvenile court pursuant to Section 300 shall be
3 limited as follows:

4 (A) If a juvenile case file, or any portion thereof, is privileged
5 or confidential pursuant to any other state law or federal law or
6 regulation, the requirements of that state law or federal law or
7 regulation prohibiting or limiting release of the juvenile case file
8 or any portions thereof shall prevail. Unless a person is listed in
9 subparagraphs (A) to (N), inclusive, of paragraph (1) and is entitled
10 to access under the other state law or federal law or regulation
11 without a court order, all those seeking access, pursuant to other
12 authorization, to portions of, or information relating to the contents
13 of, juvenile case files protected under another state law or federal
14 law or regulation, shall petition the juvenile court. The juvenile
15 court may only release the portion of, or information relating to
16 the contents of, juvenile case files protected by another state law
17 or federal law or regulation if disclosure is not detrimental to the
18 safety, protection, or physical or emotional well-being of a child
19 who is directly or indirectly connected to the juvenile case that is
20 the subject of the petition. This paragraph shall not be construed
21 to limit the ability of the juvenile court to carry out its duties in
22 conducting juvenile court proceedings.

23 (B) Prior to the release of the juvenile case file or any portion
24 thereof, the court shall afford due process, including a notice of
25 and an opportunity to file an objection to the release of the record
26 or report to all interested parties.

27 (4) A juvenile case file, any portion thereof, and information
28 relating to the content of the juvenile case file, may not be
29 disseminated by the receiving agencies to any persons or agencies,
30 other than those persons or agencies authorized to receive
31 documents pursuant to this section. Further, a juvenile case file,
32 any portion thereof, and information relating to the content of the
33 juvenile case file, may not be made as an attachment to any other
34 documents without the prior approval of the presiding judge of the
35 juvenile court, unless it is used in connection with and in the course
36 of a criminal investigation or a proceeding brought to declare a
37 person a dependent child or ward of the juvenile court.

38 (b) (1) While the Legislature reaffirms its belief that juvenile
39 court records, in general, should be confidential, it is the intent of
40 the Legislature in enacting this subdivision to provide for a limited

1 exception to juvenile court record confidentiality to promote more
2 effective communication among juvenile courts, family courts,
3 law enforcement agencies, and schools to ensure the rehabilitation
4 of juvenile criminal offenders as well as to lessen the potential for
5 drug use, violence, other forms of delinquency, and child abuse.

6 (2) Notwithstanding subdivision (a), written notice that a minor
7 enrolled in a public school, kindergarten to grade 12, inclusive,
8 has been found by a court of competent jurisdiction to have
9 committed any felony or any misdemeanor involving curfew,
10 gambling, alcohol, drugs, tobacco products, carrying of weapons,
11 a sex offense listed in Section 290 of the Penal Code, assault or
12 battery, larceny, vandalism, or graffiti shall be provided by the
13 court, within seven days, to the superintendent of the school district
14 of attendance. Written notice shall include only the offense found
15 to have been committed by the minor and the disposition of the
16 minor's case. This notice shall be expeditiously transmitted by the
17 district superintendent to the principal at the school of attendance.
18 The principal shall expeditiously disseminate the information to
19 those counselors directly supervising or reporting on the behavior
20 or progress of the minor. In addition, the principal shall disseminate
21 the information to any teacher or administrator directly supervising
22 or reporting on the behavior or progress of the minor whom the
23 principal believes needs the information to work with the pupil in
24 an appropriate fashion, to avoid being needlessly vulnerable or to
25 protect other persons from needless vulnerability.

26 Any information received by a teacher, counselor, or
27 administrator under this subdivision shall be received in confidence
28 for the limited purpose of rehabilitating the minor and protecting
29 students and staff, and shall not be further disseminated by the
30 teacher, counselor, or administrator, except insofar as
31 communication with the juvenile, his or her parents or guardians,
32 law enforcement personnel, and the juvenile's probation officer
33 is necessary to effectuate the juvenile's rehabilitation or to protect
34 students and staff.

35 An intentional violation of the confidentiality provisions of this
36 paragraph is a misdemeanor punishable by a fine not to exceed
37 five hundred dollars (\$500).

38 (3) If a minor is removed from public school as a result of the
39 court's finding described in subdivision (b), the superintendent
40 shall maintain the information in a confidential file and shall defer

1 transmittal of the information received from the court until the
2 minor is returned to public school. If the minor is returned to a
3 school district other than the one from which the minor came, the
4 parole or probation officer having jurisdiction over the minor shall
5 so notify the superintendent of the last district of attendance, who
6 shall transmit the notice received from the court to the
7 superintendent of the new district of attendance.

8 (c) Each probation report filed with the court concerning a minor
9 whose record is subject to dissemination pursuant to subdivision
10 (b) shall include on the face sheet the school at which the minor
11 is currently enrolled. The county superintendent shall provide the
12 court with a listing of all of the schools within each school district,
13 within the county, along with the name and mailing address of
14 each district superintendent.

15 (d) Each notice sent by the court pursuant to subdivision (b)
16 shall be stamped with the instruction: “Unlawful Dissemination
17 Of This Information Is A Misdemeanor.” Any information received
18 from the court shall be kept in a separate confidential file at the
19 school of attendance and shall be transferred to the minor’s
20 subsequent schools of attendance and maintained until the minor
21 graduates from high school, is released from juvenile court
22 jurisdiction, or reaches the age of 18 years, whichever occurs first.
23 After that time the confidential record shall be destroyed. At any
24 time after the date by which a record required to be destroyed by
25 this section should have been destroyed, the minor or his or her
26 parent or guardian shall have the right to make a written request
27 to the principal of the school that the minor’s school records be
28 reviewed to ensure that the record has been destroyed. Upon
29 completion of any requested review and no later than 30 days after
30 the request for the review was received, the principal or his or her
31 designee shall respond in writing to the written request and either
32 shall confirm that the record has been destroyed or, if the record
33 has not been destroyed, shall explain why destruction has not yet
34 occurred.

35 Except as provided in paragraph (2) of subdivision (b), no
36 liability shall attach to any person who transmits or fails to transmit
37 any notice or information required under subdivision (b).

38 (e) For purposes of this section, a “juvenile case file” means a
39 petition filed in any juvenile court proceeding, reports of the
40 probation officer, and all other documents filed in that case or

1 made available to the probation officer in making his or her report,
2 or to the judge, referee, or other hearing officer, and thereafter
3 retained by the probation officer, judge, referee, or other hearing
4 officer.

5 SEC. 2. Section 10850.1 of the Welfare and Institutions Code
6 is amended to read:

7 10850.1. Notwithstanding any other provision of law, for
8 purposes of Section 10850, the activities of a multidisciplinary
9 personnel team engaged in the prevention, identification, and
10 treatment of child abuse or the abuse of elder or dependent persons
11 are activities performed in the administration of public social
12 services, and a member of the team may disclose and exchange
13 any information or writing that also is kept or maintained in
14 connection with any program of public social services or otherwise
15 designated as confidential under state law ~~which~~ *that* he or she
16 reasonably believes is relevant to the prevention, identification,
17 or treatment of child abuse or the abuse of elder or dependent
18 persons to other members of the team. All discussions relative to
19 the disclosure or exchange of ~~any such~~ *this* information or writing
20 during team meetings, *as well as written reports prepared by the*
21 *team*, are confidential ~~and, notwithstanding any other provision~~
22 ~~of law, testimony concerning any such discussion is not admissible~~
23 ~~in any criminal, civil, or juvenile court proceeding.~~ *Notwithstanding*
24 *any other provision of law, these discussions and written reports*
25 *are exempt from discovery, and are inadmissible, in any criminal,*
26 *civil, or juvenile court proceeding.*

27 As used in this section, “child abuse” has the same meaning as
28 defined in Section 18951. As used in this section, “abuse of elder
29 or dependent persons” has the meaning given in Section 15610.

30 As used in this section, “multidisciplinary personnel team” means
31 any team of three or more persons, as specified in Section 15715
32 or 18951, the members of which are trained in the prevention,
33 identification, and treatment of child abuse or the abuse of elder
34 or dependent persons and are qualified to provide a broad range
35 of services related to child abuse or the abuse of elder or dependent
36 persons.

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